

RECRUITMENT OF CHILDREN IN ARMED CONFLICT: THE NAXALITE VIOLENCE***SHUBH CHANDRIKA RATHORE**

“We want to recognise those who over the several years have been the faceless ones, the anonymous ones, the ones who have been side-passed, and so in that process, help to heal trauma, help to heal wounded communities, help to make whole what was broken.”

- His Grace Archbishop Emeritus Desmond Tutu

INTRODUCTION

Children are born free from the shackles of societal dogma, hatred and injustice. Even before the newborns open their eyes to embrace the world, they are categorized with caste, religion, and financial status. Financial stability plays a decisive role in determining the childhood and future years of people. It is this material luxury that draws the gap between rearing by minted families and the vulnerable bringing up of the disadvantaged children. “First and foremost, we need to recognise that poverty is violence, it is violence perpetuated with the consent of society. A society that is silent or looks the other way in the face of poverty, it is giving consent to exploitation, injustice and war. Poverty strips away a person’s dignity, humanity, it corrodes the human spirit.”¹ Poverty is the source of deprivation of the basic life rights of the vulnerable children residing in the naxalite controlled districts of India.

War, a three letter word spells great cataclysm with ease. The interface between devastation and death is survival, and what is forgotten amidst an armed conflict is the group of survivors. Every armed conflict affects the health of the resident population, but it impacts the minds of innocent children. Child rights are violated on a large scale when children are forcefully dragged away from their families and tortured in various ways in order to radicalize them and turn them into criminals at such a tender age. Recruitment and use of children under the age of 18 is prohibited

¹ NDTV (Dec. 14, 2013) *Poverty is violence: Ela Bhatt*, Available at: https://www.youtube.com/watch?v=50SH5sPc_9o (Accessed: Apr. 27, 2016, 1.36 P.M.).

by the Convention on the Rights of the Child's Optional Protocol on the Involvement of Children in Armed Conflict.² The Optional Protocol prohibits non-State armed groups under any circumstances from recruiting or using children under 18 years. The International Labor Organization's Convention No. 182 on the Worst Forms of Child Labor declares that recruitment of children below 18 years of age is "one of the worst forms of child labor".³ ILO recommendation 190 accompanying this convention, as well as the Security Council all call for countries to criminalise child recruitment.⁴ The Paris Principles on Children Associated with Armed Forces or Armed Groups (2007)⁵ to protect children from unlawful recruitment suggests States to ensure that armed groups within their territory do not recruit children under the age of 18 years and that states themselves must respect the international standards for recruitment. The African Charter on the Rights and Welfare of the Child (1999) prohibits recruitment and direct participation in hostilities of any person under the age of 18 years.⁶

"International Humanitarian Law recognises two types of armed conflicts:

- (a) International Armed Conflicts: an opposition between two or more nations; and
- (b) Non-International Armed Conflicts: an opposition between governmental forces and non-governmental armed groups or, an opposition between non-governmental armed groups.⁷

² Art. 1-3, Optional Protocol to the Convention on the Rights of the Child on the Involvement in Armed Conflict.

³ Children And Armed Conflict: Working Paper No. 1, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*; Pg: 10.

⁴ Children And Armed Conflict: Working Paper No. 1, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*; Pg: 11.

⁵ Para. 4 of Paris Commitments to protect children from unlawful recruitment or use by armed forces or groups. Also

See: Children And Armed Conflict: Working Paper No. 1, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*; Pg: 12.

⁶ Children And Armed Conflict: Working Paper No. 1, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*; Pg: 12.

⁷ International Committee of the Red Cross (ICRC) Opinion Paper, March 2008 (n.d.) *How is the Term "Armed Conflict" Defined in International Humanitarian Law?*, Available at: <https://www.icrc.org/eng/assets/files/other/opinion-paper-armed-conflict.pdf> (Accessed: Apr. 27, 2016, 3.22 P.M.).

Non International Armed Conflict:

Non-International Armed Conflict or NIAC has been defined under the common Article 3 to the Geneva Conventions of 1949 and under the Article 1 of the Additional Protocol II.⁸

a) Non-International Armed Conflicts within the Meaning of Common Article 3

Common Article 3 applies to "armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties". These include armed conflicts in which one or more non-governmental armed groups are involved. Depending on the situation, hostilities may occur between governmental armed forces and non-governmental armed groups or between such groups only. As the four Geneva Conventions have universally been ratified now, the requirement that the armed conflict must occur "in the territory of one of the High Contracting Parties" has lost its importance in practice. Indeed, any armed conflict between governmental armed forces and armed groups or between such groups cannot but take place on the territory of one of the Parties to the Convention."⁹

Article 4: Recruitment of child soldiers by the armed opposition groups:

"Article 4 of the Optional Protocol states that armed opposition groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years and the States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices. Moreover, the Optional protocol insists that the parties to the conflict pay particular attention to all children involved in hostilities during the disarmament, demobilization and reintegration process, including special programs to provide for the "psychological recovery and social reintegration of these children into the society."¹⁰

⁸ Id.

⁹ International Committee of the Red Cross (ICRC) Opinion Paper, March 2008 (n.d.) *How is the Term "Armed Conflict" Defined in International Humanitarian Law?*, Available at: <https://www.icrc.org/eng/assets/files/other/opinion-paper-armed-conflict.pdf> (Accessed: Apr. 27, 2016, 3.27 P.M.).

¹⁰ Article 4, Optional Protocol.

The Lubanga Case before the International Criminal Court¹¹:

Lubanga Dyilo was convicted in March, 2012 by the International Criminal Court for committing war crimes consisting of enlisting and conscripting children under the age of fifteen years into the Forces Patriotiques Pour La Liberation du Congo, and for their active participation in hostilities. He was sentenced by the Court to a period of 14 years imprisonment. This case was the first case of its kind before the International Criminal Court. The ICC gave a landmark decision in this case by showing acceptance that the “line between voluntary and involuntary recruitment is legally irrelevant in the context of children’s association with armed forces or with armed groups in the times of conflict.”¹²

“The Court also decided to apply a broad interpretation of the term, “active participation in hostilities” to ensure justice and protection for all children associated with armed conflicts, from those on the front lines to the girls and boys who were involved in multiple roles supporting the combatants.”¹³

The Charles Taylor Case before the Special Court for Sierra Leone¹⁴:

The Special Court for Sierra Leone found the Former President of Liberia, Charles Taylor, guilty of aiding and abetting war crimes committed by the Revolutionary United Front (RUF) during 1991-2002 civil war in Sierra Leone. The special court sentenced Taylor to 50 years imprisonment and this decision was upheld by the Appeal Chamber in 2013.

This judgment marks the first time that a former Head of State has been convicted of war crimes against children that were committed by an armed group found not to be under his direct command and control but to which he gave his practical assistance, encouragement and moral

¹¹ Children And Armed Conflict: Working Paper No. 1, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*; Pg: 12.

¹² Children And Armed Conflict: Working Paper No. 1, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*; Pg: 11.

¹³ Id.

¹⁴ Children And Armed Conflict: Working Paper No. 1, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*; Pg: 11-13.

support. The Special Court was also the first international court to determine the use of children aged less than 15 years constituted a war crime.¹⁵

Indian Perspective: Nandini Sundar v. State of Chhattisgarh¹⁶

“The Petitioner, Dr. Nandini Sunder, a professor of Sociology at Delhi School of Economics, along with others, alleged a widespread violation of human rights of people of Dantewada District, and its neighboring areas in the State of Chhattisgarh, on account of the ongoing armed Maoist/Naxalite insurgency, and the counter-insurgency operations launched by the Government of Chhattisgarh. Furthermore, it was also alleged that the State of Chhattisgarh was actively promoting the activities of a group called “Salwa Judum”, which was in fact an armed civilian vigilante group, thereby further exacerbating the ongoing struggle, and was leading to further widespread violation of human rights.”¹⁷

“State government supported and formed a militia called Salwa Judum in 2005 which was declared anti-constitutional by Supreme Court in 2011. This militia has burned down more than 650 tribal villages and emptied them out.

- More than 350000 Tribals were forced to displace by same militia.
- Large scale mass killings took place during attacks on tribal population by this militia.
- Large numbers of rapes were committed by militia and security forces.
- State government provides impunity to the members of the militia and other forces.
- Tribals find no forum which could redress their grievances.”¹⁸

“This represented a yawning gap between the promise of principled exercise of power in a constitutional democracy, and the reality of the situation in Chhattisgarh, where the Respondent, the State of Chhattisgarh, claimed that it had a constitutional sanction to perpetrate, indefinitely, a regime of gross violation of human rights in a manner, and by adopting the same modes, as

¹⁵ Children And Armed Conflict: Working Paper No. 1, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*; Pg: 11-13.

¹⁶ Human Rights Law Network (2013) *A Landmark Judgment in Salwa Judum Case*, Available at: <http://www.hrln.org/hrln/defend-the-defenders/pils-a-cases/1511-a-landmark-judgment-in-salwa-judum-case.html> (Accessed: Apr. 27, 2016, 6.18 P.M.).

¹⁷ Human Rights Law Network (2013) *A Landmark Judgment in Salwa Judum Case*, Available at: <http://www.hrln.org/hrln/defend-the-defenders/pils-a-cases/1511-a-landmark-judgment-in-salwa-judum-case.html> (Accessed: Apr. 27, 2016, 6.23 P.M.).

¹⁸ Id.

done by Maoist/Naxalite extremists. The State of Chhattisgarh also claimed that it had the powers to arm, with guns, thousands of mostly illiterate or barely literate young men of the tribal tracts, who appointed as temporary police officers, with little or no training, and even lesser clarity about the chain of command to control the activities of such a force, to fight the battles against alleged Maoist extremists.”¹⁹

“The Honorable Supreme Court gave its order and directions to the Central Bureau of Investigation to immediately take over the investigation of, and taking appropriate legal actions against all individuals responsible for:

- The incidents of violence alleged to have occurred, in March 2011, in the three villages, Morpalli, Tadmetla and Timmapuram, all located in the Dantewada District or its neighboring areas;
- The incidents of violence alleged to have been committed against Swami Agnivesh, and his companions, during their visit to State of Chattisgarh in March 2011.”²⁰

The Supreme Court made the following observations:

“The Directive Principles, though not justiciable, nevertheless “fundamental in the governance of the Country”, direct the State to utilize the material resources of the community for the common good of all, and not just of the rich and the powerful without any consideration of the human suffering that extraction of such resources impose on those who are sought to be dispossessed and disempowered. Complete justice – social, economic and political, is what our Constitution promises to each and every citizen. Such a promise, even in its weakest form and content, cannot condone policies that turn a blind eye to deliberate infliction of misery on large segments of our population.”²¹

Para 60: “In light of the above, we hold that both Article 21 and Article 14 of the Constitution of India have been violated, and will continue to be violated, by the appointment of tribal youth, with very little education, as SPOs engaged in counter-insurgency activities. The lack of

¹⁹ Supra Note 21.

²⁰ Human Rights Law Network (2013) *A Landmark Judgment in Salwa Judum Case*, Available at: <http://www.hrln.org/hrln/defend-the-defenders/pils-a-cases/1511-a-landmark-judgment-in-salwa-judum-case.html> (Accessed: Apr. 27, 2016, 6.23 P.M.).

²¹ Writ Petition (CIVIL) NO. 250 OF 2007.

adequate prior education incapacitates them with respect to acquisition of skills, knowledge and analytical tools to function effectively as SPOs engaged in any manner in counter-insurgency activities against the Maoists.”²²

Para 61: “Article 14 is violated because subjecting such youngsters to the same levels of dangers as members of the regular force who have better educational backgrounds, receive better training, and because of better educational backgrounds possess a better capacity to benefit from training that is appropriate for the duties to be performed in counter insurgency activities, would be to treat unequals as equals. Moreover, inasmuch as such youngsters, with such low educational qualifications and the consequent scholastic inabilities to benefit from appropriate training, can also not be expected to be effective in engaging in counter-insurgency activities, the policy of employing such youngsters as SPOs engaged in counter-insurgency activities is irrational, arbitrary and capricious.”²³

Para 62: “Article 21 is violated because, notwithstanding the claimed volition on the part of these youngsters to appointment as SPOs engaged in counter-insurgency activities, youngsters with such low educational qualifications cannot be expected to understand the dangers that they are likely to face, the skills needed to face such dangers, and the requirements of the necessary judgment while discharging such responsibilities.”²⁴

Para 64: “To employ such ill equipped youngsters as SPOs engaged in counterinsurgency activities, including the tasks of identifying Maoists and non-Maoists, and equipping them with firearms, would endanger the lives of others in the society. That would be a violation of Article 21 rights of a vast number of people in the society. ... Further, given the poverty of those youngsters, and the feelings of rage, and desire for revenge that many suffer from, on account of their previous victimization, in a brutal social order, to engage them in activities that endanger their lives, and exploit their dehumanized sensibilities, is to violate the dignity of human life, and humanity.”²⁵

²² Id.

²³ Writ Petition (CIVIL) NO. 250 OF 2007.

²⁴ Writ Petition (CIVIL) NO. 250 OF 2007.

²⁵ Id.

Para 70: “As Aharon Barak, the former President of the Supreme Court of Israel, while discussing the war on terrorism, wrote in his opinion in the case of Almadani v. Ministry of Defense opinion:

“...This combat is not taking place in a normative void.... The saying, “When the canons roar, the Muses are silent,” is incorrect. Cicero’s aphorism that laws are silent during war does not reflect modern reality. The foundations of this approach is not only pragmatic consequence of a political and normative reality. Its roots lie much deeper. It is an expression of the difference between a democratic state fighting for its life and the aggression of terrorists rising up against it. The state fights in the name of the law, and in the name of upholding the law. The terrorists fight against the law, and exploit its violation. The war against terror is also the law’s war against those who rise up against it”²⁶

CONTEMPORARY CONDITIONS OF ARMED CONFLICT

“Children, reportedly as young as 6, are forcibly removed from their families and used by terrorist groups such as the Maoists in Bihar, Chhattisgarh, Jharkhand, Maharashtra, West Bengal, and Odisha to act as spies and couriers, plant improvised explosive devices, and fight against the government.”²⁷ The Annual Report of the UN Secretary General on Children and Armed Conflict stated that “Maoists recruit and indoctrinate children for children’s squads and associations, particularly in Chhattisgarh and some districts in adjoining states”²⁸, and called it a part of the Maoist strategy for mass mobilization.²⁹ “According to the Ministry of Home Affairs, Naxalites in Bihar, Chhattisgarh, Jharkhand and Odisha States recruited boys and girls between 6 and 12 years of age into specific children’s units. They were used as informers and taught to fight with crude weapons, such as sticks. At the age of 12, children associated with Naxalites are reportedly transferred to specific units, where they receive training in weapon handling and the

²⁶ Writ Petition (CIVIL) NO. 250 OF 2007.

²⁷ U.S. Department of State (n.d.) *2015 Trafficking in Persons Report: India*, Available at: <http://www.state.gov/documents/organization/243559.pdf> (Accessed: Apr. 27, 2016, 2.15 P.M.).

²⁸ Chakrabarty, R. (Jun. 20, 2012, 04.46 AM IST) *The Times of India: Maoists recruiting child soldiers: UN report*, Available at: <http://timesofindia.indiatimes.com/india/Maoists-recruiting-child-soldiers-UN-report/articleshow/14285001.cms> (Accessed: Apr. 27, 2016, 2.25 P.M.).

²⁹ Id.

use of improvised explosive devices.”³⁰ The Naxalites have a self created norm which is forcefully prevailed on the poor communities residing in the territories under Naxalite control. Each family is threatened to offer a child or children for recruitment in the Bal Sangh. Similarly, the children are threatened while they are being abducted from schools or being dragged away from homes. On the other hand, vulnerable children are threatened, to face the death of their parents and siblings, if they refuse to join the Bal Sangh for training or try to escape from the training area or if they try to surrender to the government’s security forces that are deployed in the area for counter-insurgency attacks.³¹

Threatening a child with deadly weapons and dire consequences impairs the very faculty of thought of the innocent child. In some districts, the Naxalite Cadre does not use threat, rather it promises of good returns to families and lures the children to join their organization. “In August, in Lakhisarai district, Naxalites reportedly made demands of children from families, resulting in up to 100 girls and boys, between 10 and 15 years of age, joining the group.”³² On Aug. 4, 2015, “a CPI-Maoist squad led by ‘area commander’ Kanhu Ram Munda lured away three girls aged between 17 to 19 years from Jiyan and Maheshpur villages under Gurabandha Police Station limits in East Singhbhum District of Jharkhand.”³³ Children are promised a lot of things that they cannot afford, and it leads to the initial development of hope that they will achieve greater happiness and satisfaction by living with other children in the camps. Slowly the children develop intimacy with the group and gradually turn sympathizers and informers. Some eventually join the Naxalites. A family member, relative or someone known to the family serving in the rebel ranks generally acts as a facilitator.³⁴ Shobha Mandi, a former naxalite, in her book “Ek Maowadi ki Diary” expressed how she was sexually abused and assaulted. She mentioned

³⁰ Office of the Special Representative of the Secretary General for Children and Armed Conflict (n.d.) *India*, Available at: <https://childrenandarmedconflict.un.org/countries/india/> (Accessed: Apr. 27, 2016, 2.36 P.M.).

³¹ Id.

³² Office of the Special Representative of the Secretary General for Children and Armed Conflict (n.d.) *India*, Available at: <https://childrenandarmedconflict.un.org/countries/india/> (Accessed: Apr. 27, 2016, 2.40 P.M.).

³³ South Asia Terrorism Portal (n.d.) *Incidents and Statements involving CPI-Maoist: 2015*, Available at: http://www.satp.org/satporgtp/countries/india/terroristoutfits/CPI_M_Timeline15.htm (Accessed: Apr. 27, 2016, 2.53 P.M.).

³⁴ Ramana, P.V. (Aug. 06, 2015) *Institute for Defence Studies and Analyses: Children in Indian Maoist Ranks*, Available at: http://www.idsa.in/idsacomment/ChildreninIndianMaoistRanks_pvrmana_060814 (Accessed: Apr. 27, 2016, 3.16 P.M.).

that the naxalite movement was a “den of vice.” where “adultery, wife-swapping, violence against women, including torture have become a norm.”³⁵

A total of “106 districts have been declared as affected by “Left Wing Extremism” in nine states of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Uttar Pradesh and West Bengal.”³⁶ The recent report of the Ministry of Home Affairs for the year 2015-2016 acknowledges the menace of Naxalite insurgency and threat faced by the poor communities living in the areas of Naxalite dominance. It states the following: “Left Wing Extremist (LWE) remains an area of concern for internal security of the country. While 106 districts in 10 States are affected by LWE in varying degrees, 35 districts in 7 States are the most affected districts. LWE violence reached its peak in 2010. ... In 2015, 1088 incidents of LWE violence took place resulting in 226 deaths. Chhattisgarh (466 incidents and 97 deaths) remains the worst affected State followed by Jharkhand (310 incidents and 56 deaths), Bihar (109 incidents and 17 deaths), Odisha (92 incidents and 28 deaths), Maharashtra (55 incidents and 18 deaths), Andhra Pradesh (35 incidents and 8 deaths) and Telangana (11 incidents and 2 deaths).

CPI (Maoist) continues to be most potent among the various LWE out ts in the country and accounted for more than 80% of total LWE violent incidents and resultant deaths.”³⁷ The report does not mention about Children in Armed Conflict, neither does it mention any atrocities against children in such regions. The general coverage of crimes against children was stated as follows: “a total of 89,423 cases of crime against children were reported in the country during 2014 compared to 58,224 cases during 2013, showing an increase of 53.6%. Among IPC crimes, number of cases under Kidnapping and Abduction increased from 28,167 in 2013 to 37,854 in 2014 registering an increase of 34.4% over 2013. ... Madhya Pradesh, with the highest number

³⁵ Haque, Saiful (Jun. 9, 2013, 01:12 GMT.) *Mail Online India: Former Naxal commander who was raped and tortured by comrades reveals the culture of brutal misogyny in the Maoist movement.*, Available at: <http://www.dailymail.co.uk/indiahome/indianews/article-2338122/Former-Naxal-commander-raped-tortured-seven-years-comrades-reveals-culture-misogyny-violence-women-Maoist-movement.html> (Accessed: Apr. 27, 2016, 1.49 P.M.).

³⁶ Asian Centre for Human Rights (Mar. 2013) *India's Child Soldiers*, Available at: http://tbinternet.ohchr.org/Treaties/CRC-OP-AC/Shared%20Documents/Ind/INT_CRC-OP-AC_ICO_Ind_15714_E.pdf (Accessed: Apr. 27, 2016, 3.13 P.M.).

³⁷ Ministry of Home Affairs (Apr. 12, 2016, 3:47 P.M.) *Annual Report Ministry of Home Affairs 2015-2016.*, Available at: [http://mha.nic.in/sites/upload_files/mha/files/AR\(E\)1516.pdf](http://mha.nic.in/sites/upload_files/mha/files/AR(E)1516.pdf) (Accessed: Apr. 27, 2016, 3.23 P.M.).

of 15,085 cases, reported 16.9% incidence of crime against children in the country during the year 2014.”³⁸

On the contrary, the report discusses at lengths about the Civic Action Programme (CAP) of security forces to build confidence with the locals, in the areas under Naxalite control, and, about the Media Plan to convey Government’s point of view to the people by addressing it on the security and development fronts.³⁹ “The media has helped to highlight LWE activities to make people aware as to how LWE violence is preventing implementation of the welfare and development schemes, policies and initiatives of the Government. ...Under the Media Plan activities like broadcasting audio jingles by All India Radio in the LWE affected States, ... For wide publicity of Government’s view and spread awareness about the false propaganda of Maoists, three documentary films have been uploaded on the youtube channel of MHA and telecast through Doordarshan on national channel on complimentary basis.”⁴⁰

The question contradicting the action plan and its implementation is, are families and children hearing the jingles and watching the television for awareness amidst an armed conflict? On one hand the government describes the citizenry as poverty ridden peasant class who have no option but to adhere to the Maoist rebels due to their lack of resources and education, and on the other hand the expectation as to become aware, are both contradicting options especially when the harsh reality stands revealed. Children are forcefully dragged away by the militants from their schools, the school buildings are mostly used by security forces. The children are barely taught or rarely go to school, because the buildings of education are transformed into bastions for the central government’s security forces.

In an interview with an officer of the Border Security Force⁴¹ the most important fact that came to light was, the people are poverty ridden to the extent that they cannot afford medicines for fever or cough or body pains. It is extremely difficult for the families residing in the naxalite

³⁸ Ministry of Home Affairs (Apr. 12, 2016, 3:47 P.M.) *Annual Report Ministry of Home Affairs 2015-2016*, Available at: [http://mha.nic.in/sites/upload_files/mha/files/AR\(E\)1516.pdf](http://mha.nic.in/sites/upload_files/mha/files/AR(E)1516.pdf) (Accessed: Apr. 27, 2016, 3:29 P.M.).

³⁹ Id.

⁴⁰ Supra Note 17.

⁴¹ Note: The Officer (Commandant) was posted in Raipur, Chhattisgarh. He commanded his Battalion in operations against the Naxalite Rebels. He was presented a questionnaire by me, and he chose to answer the questions on

the precondition of non-disclosure of identity. The questionnaire has been attached in the Annexure I.

territory to travel from one place to another, simply out of the fear of being shot as a suspected informer by Maoist rebels. The women and children are confined to their homes and childhood is lost in fear of the “call”. Every child fears that she or he will be snatched away from their family just like their friends were snatched away, who never returned. The pain is equal among the parents and the other members of the community who fear for their lives. Very few children attend schools because their families are living in villages closer to the city and the area is better protected, thereby making the village schools functional. But, not all children are so fortunate. As for the government schemes, the Civic Action Programme is gaining momentum slowly, as there is confidence building exercise by initiating interactions with the local villagers and spending time with them, learning their way of life and the difficulties they face. But this is only limited to the areas where the Maoist hold is depleting.

When asked about children in cross firing and attacks by the Naxalites on the security forces, his response was as follows: “In areas of Maoist stronghold, there is retaliation and oftentimes cross firing. We try and avoid civilian casualties and also avoid firing at teenagers who open fire at us. The reason being that sometimes a child genuinely wants to escape from the clutches of his Maoist commander, but as a rule he fires out of fear. We have observed a few cases where the child fired, yet, he remained behind even when his commander and his group fled. There have been recent cases in Bihar when children managed to brave up and escape from the training area of the Maoist rebels. Sometimes, the villagers were returned dead bodies of children wrapped in a cloth, and they were threatened by the rebels to silently conduct their child’s burial. It was later that the forces learned of the incident and on checking the body it was confirmed that the child was killed in an IED blast, most probably during training. In depth, it is saddening to acknowledge that such is the condition of children in our country.”⁴²

On questioning about the psycho-social and economic help, the response was in the negative. “Moreover, amidst such gripping fear and tension, the villagers and their children living in the territory of Naxalite stronghold, barely even consider traveling to the city. And very few NGOs that may be interested in providing help are established in the city. They provide help to few

⁴² Note: The Officer (Commandant) was posted in Raipur, Chhattisgarh. He commanded his Battalion in operations against the Naxalite Rebels. He was presented a questionnaire by me, and he chose to answer the questions on the precondition of non-disclosure of identity. The questionnaire has been attached in the Annexure I.

families that live on the outskirts of the city or you may say, to those can travel to them for help. Most people fear kidnapping by the rebels and it is a risk to walk into their territory, goodwill is not a bargain.”⁴³

CONCLUSION

The Indian State has been aware of the pressing need for action to improve the situation of young children in India by providing them better access to health, nutrition and education and by creating an environment more conducive to their proper development. However, no direct legislative initiatives have taken shape in this regard. Successive governments have relied instead on a range of executive policies and schemes. The Report 259 of the Law Commission of India only states recommendations for children’s health, education and all round development. There is no mention of any psycho-social support that children in armed conflict urgently require. The Naxalite Commanders on the contrary have an edge above the government as they are able to forcefully recruit vulnerable innocent children and use them to their tunes.

The reason a child gave for such an early age of recruitment was that he being 15 years old was not as preferable as a 6 year old child because a younger child is easy to train, easy to radicalise, easy to brainwash and easy to scare. An account of escape of 9 children was published as follows: “The Maoists, who have been indoctrinating children and using them for their missions for decades, recently suffered a setback to their catch-them-young agenda. The rebels first deployed children as spies, couriers and most recently, foot soldiers- a trend associated with the Taliban or African insurgent groups. However, the death of a 10-year-old boy during a training session and subsequent escape of many other children from captivity reveal that their plans are going awry. Pardeshi Lohra was one among the 10 people - eight children and two adults - abducted recently by the Maoists from tribal-dominated Bandhua village in Latehar, one of the Naxal hotbeds in Jharkhand. He was killed while planting a bomb.

⁴³ Note: The Officer (Commandant) was posted in Raipur, Chhattisgarh. He commanded his Battalion in operations against the Naxalite Rebels. He was presented a questionnaire by me, and he chose to answer the questions on the precondition of non-disclosure of identity. The questionnaire has been attached in the Annexure I.

Lohra did not connect the wires properly," said Bhamru (name changed) - one of the children who fled the Maoists' captivity - referring to what the police believe is training in laying Improvised Explosive Device (IED) gone wrong. The villagers, according to the police, are facing such hardships for flouting the Maoists' diktat by felling trees. "They had cleared some trees for agricultural purposes, which the Maoists had objected to. Enraged rebels asked the villagers to shell out Rs 5,000 per tree felled, something they cannot afford," Michael Raj, superintendent of police in Latehar, said. "Those who defied the diktat got another option - one member from each family should join the Maoists' fold. "According to the villagers, that's why they abducted 10 people," Raj said.⁴⁴ From this very harrowing escape account we may infer that the children are being mercilessly tortured mentally, physically and the level of violence is of gravest form. The saddening story does not end here. This is just the beginning to the most harrowing life accounts of our national assets who deserve to be loved and nurtured like every other child in the world, who deserve to lead stress free, threat free and happy lives like ourselves. There is an urgent need to scrutinize the issue and make a separate law for children in Armed Conflict in India. It is not the progress of our nation that two schemes are flourishing in such areas. It is an impediment to the world's largest democracy, a failure on the part of the government and citizens for not actively raising the question and arguing for the rights of these vulnerable children who sleep each night with the sounds of gun shots.

I filed an RTI regarding the status of children in armed conflict in India in March 2016. It was forwarded to the Ministry of Health and the Ministry of Women and Child Development. After 3 weeks of submission of the first appeal I received a letter from the Ministry of Women and Child Development stating their inability to answer my questions, and furthering my query to the Ministry of Defence and the Ministry of Home Affairs. We are a nation with a government which only knows that it signed the Optional Protocol to the Convention on the Rights of the Child, but has no answer to the condition of the very child.

The matter has been underestimated in our country and there are no deliberations. Hence, rises the imperative to scrutinize the issue and implement laws to protect children in armed conflict, for we cannot do greater damage to the assets of our nation.

⁴⁴ Purohit, J.R. (Sep. 29, 2013) *Victims of the Maoist child-snatchers: After eight kidnapped children escape their Naxal captors, villagers tell of the fear that stalks the Red Hinterland.*, Available at: <http://www.dailymail.co.uk/indiahome/indianews/article-2437792/Victims-Maoist-child-snatchers-After-kidnapped-children-escape-Naxal-captors-villagers-tell-fear-stalks-Red-hinterland.html> (Accessed: Apr. 27, 2016, 7.23 P.M.).